



U.S. Department of Justice

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VIA EMAIL (childs_ecf@scd.uscourts.gov)
The Honorable J. Michelle Childs
United States District Judge
901 Richland Street
Columbia, South Carolina 29201

RE: *Andrews v. United States*, 3:16-cv-3702

Dear Judge Childs:

Thank you for allowing us to comment on the draft scheduling order. Defendant's only comment concerns the absence of a liability trial. The schedule appears to contemplate that liability issues will be decided on motions for summary judgment. We anticipate that factual disputes will require a trial. Causation issues will turn on expert opinions, we think, and the Court will need to hear testimony from those witnesses.

In reviewing the deadlines, we noted that they are generally similar, if not the same, as deadlines in *Cohen v. United States*, 3:15-cv-1489, particularly the deadlines during the liability phase. We think consolidation of all pending cases brought against the United States for damages resulting from the Fort Jackson dam failures will promote efficiencies in discovery and in a unitary trial of liability issues. The evidence—documentary as well as testimonial—will be largely the same in these cases. Inasmuch as the proposed *Andrews* deadlines track the *Cohen* deadlines, consolidation can be accomplished without difficulty. We are aware of the case filed yesterday, *Kings Grant Owners Assn. v. United States*, 3:17-cv-289. It raises no new liability issues, as it mirrors the *Cohen* complaint. We are prepared to respond

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promptly to the complaint so that it can be consolidated too. If that case requires a separate schedule, we do not think that militates against consolidating the other seven cases. We intend to file a motion to consolidate unless the Court prefers to take up this matter sua sponte

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Rob Doyle Smith".

ROBIN DOYLE SMITH

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Civil Division, Torts Branch

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cc: Jones Andrews, Esq.
McGowan, Hood & Felder